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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,366	07/03/2001	Gennaro A. Cuomo	RSW920000184US1	1082

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DUKE W. YEE, ESQ.
YEE & ASSOCIATES
4100 ALPHA ROAD
SUITE 1100
DALLAS, TX 75244

EXAMINER

TO, JENNIFER N

ART UNIT	PAPER NUMBER
2195	

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,366

Applicant(s)

CUOMO ET AL.

Examiner

Jennifer N. To

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/03/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 6, 8-10, 13, 14, 16-18, 21, 22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 8-10, 13, 14, 16-18, 21, 22 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

PD

DETAILED ACTION

1. Claims 1-2, 5-6, 8-10, 13-14, 16-18, 21-22, and 24 are pended for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 5, 8-10, 13, 16-18, 21, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bhatti et al (hereafter Bhatti) ("Web Server Support for Tiered Services", 1999).
4. Bhatti was cited in the last office action.
5. As per claim 1, Bhatti teaches a method in a computer system executing a Web-based application (abstract, lines 1-12), said method comprising the step of:
 - associating one of a plurality of different priorities with each one of a plurality of different HTTP requests that are processed by an application (fig. 7; page 67, request classification section, connection manager section);
 - establishing a plurality of different, separate queues (fig. 7);
 - associating each one of said plurality of different queues with a different one of a plurality of priorities (page 67, connection manager section);

for each one of said plurality of HTTP requests, storing one of said plurality of HTTP requests in one of said plurality of different queues that is associated with one of said plurality of priorities that is associated with said one of said plurality of HTTP requests, wherein all of said plurality of HTTP requests that are associated with a first one of said plurality of priorities are stored in a first one of said plurality of different queues that is associated with said first one of said plurality of priorities, and all of said plurality of HTTP requests that are associated with a second one of said plurality of priorities are stored in a second one of said plurality of different queues that is associated with said second one of said plurality of priorities (fig. 7; page 67 connection manager section, request classification section); and

completing processing of multiple ones of said plurality of HTTP requests that are stored in said first one of said plurality of different queues before beginning processing of one of said plurality of HTTP requests that are stored in said second one of said plurality of different queues regardless of whether or not said first one of said plurality of priorities is a higher priority than said second one of said plurality of priorities (fig. 7; page 67, connection manager section; page 68, request scheduling section, lines 1-14).

6. As per claim 2, Bhatti further teaches:

associating one of a plurality of types or requests with each one of said plurality of different priorities (page 67, request classification section);

identifying a type of each of said plurality of HTTP requests (page 67, connection manager section); and

for each one of said plurality of HTTP requests, determining one of said plurality of different priorities associated with a type that was determined for each of said plurality of HTTP requests (page 67, connection manager section).

7. As per claim 5, Bhatti further teaches:

receiving said plurality of HTTP requests by said application (fig. 7); and
determining one of said plurality of different priorities that is associated with a type of each one of said plurality of HTTP requests (fig. 7).

8. As per claim 8, Bhatti further teaches:

storing ones of said plurality of requests having a type associated with a high priority in one of said plurality of queues that is associated with said high priority (fig. 7);
storing ones of said plurality of requests having a type associated with a low priority in one of said plurality of queues that is associated with said low priority (fig. 7);
and

completing processing of said ones of said plurality of requests stored in said one of said plurality of queues that is associated with said high priority before processing said ones of said plurality of requests stored in said one of said plurality of queues that is associated with a low priority (fig. 7; page 68, request scheduling section, lines 1-14).

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9. As per claims 9-10, 13, and 16, these are computer program product claims that correspond to the method claims 1-2, 5, and 8. Therefore, these claims are rejected with the same reason as the method claims 1-2, 5, and 8 above.

10. As per claims 17-18, 21, and 24, these are computer system claims that correspond to the method claims 1-2, 5, and 8. Therefore, these claims are rejected with the same reason as the method claims 1-2, 5, and 8 above.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6, 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhatti et al ("Web Server Support for Tiered Services", 1999), as applied in claim 1 above, and further in view of Ferguson (U.S. Patent No. 6769019).

13. Ferguson was cited in the last office action.

14. As per claim 6, Bhatti further teaches:

receiving said plurality of HTTP requests by said application (fig. 7; page 67, connection manager);

determining a type of said one of said plurality of requests (fig. 7; page 67, request classification section);

identifying one of said plurality of priorities that is associated with said type (fig. 7; page 67, connection manager section); and

storing said one of said plurality of requests in said identified one of said plurality of queues (fig. 7).

Bhatti did not specifically teaches:

determining whether there is a backlog of pending requests waiting to be processed by said application; and

in response to a determination that there is no backlog, immediately processing said one of said plurality of HTTP requests.

15. However, Ferguson teaches:

determining whether there is a backlog of pending requests waiting to be processed by said application (col. 12, lines 2-3); and

in response to a determination that there is no backlog, immediately processing said one of said plurality of HTTP requests (col. 12, lines 3-4).

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16. It would have been obvious to one of an ordinary skill in the art at the time the invention was made to have combined the teaching of Bhatti, and Ferguson because Ferguson is teaching of determining a backlog of pending requests and immediately processing the requests would improve the performance of Bhatti's system by reducing or eliminating the user's wait time for downloading (Ferguson, col. 3, lines 18-19).

17. As per claim 14, it is a computer program product claim that corresponds to the method claim 1. Therefore, this claim is rejected with the same reason as the method claim 1 above.

18. As per claim 22, it is a computer system claim that corresponds to the method claim 1. Therefore, this claim is rejected with the same reason as the method claim 1 above.

Response to Arguments

19. Applicant's arguments with respect to claims 1-2, 5, 6, 8-10, 13-14, 16-18, 21-22, and 24 have been considered but are moot in view of the new ground(s) of rejection.

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer N. To whose telephone number is (571) 272-7212. The examiner can normally be reached on M-T 7AM-4:30 PM, F 7AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100